SWEETENER USERS ASSOCIATION

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Case Nos. A-201-845 & C-201-846
Suspension Agreement
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VIA ACCESS ELECTRONIC FILING
The Honorable Wilbur L. Ross
Secretary
U.S. Department of Commerce
Attention: Enforcement & Compliance
14th Street & Constitution Avenue, NW
Washington, DC 20230

RE: Sugar from Mexico: Period for Rebuttal to Interested Party Comments on Proposed Amendments

Dear Mr. Secretary:

The Sweetener Users Association (SUA) takes this opportunity to provide perspective on comments made by the American Sugar Coalition (ASC) on the 2017 amendments to the agreements suspending antidumping and countervailing duty investigations into sugar from Mexico.

SUA disagrees with ASC that the 2017 amendments should be re-adopted without any substantive change. We previously wrote to you (in a November 14, 2019 comments that have been posted to the docket of Case No. A-201-845) that the increases in reference prices in the 2017 amendments have harmed the industrial users of sugar by inflating costs across the domestic sugar market. By raising manufacturing costs, the 2017 amendments have likewise contributed to higher consumer prices for food than would have obtained in the absence of the amendments. And by encouraging further imports of sugar-containing products, which substitute for products using domestically-produced sugar, the agreements have reduced job opportunities in the United States.

You have heard from CSC Sugar LLC that its business has been harmed by the 2017 amendments, chiefly through changes to the definitions of "Other" and "Refined" sugar. These changes have the effect of pricing sugar from Mexico as "Refined" when sugar of the exact same polarity would be considered raw sugar if it were imported from any country other than Mexico, and would also be considered raw sugar under international standards. SUA opposed the changes to polarity during the original 2017 comment period on the amendments, and continues to do so.

Similarly, you have received comments from the International Sugar Trade Coalition (ISTC), which states that it "first entered its appearance in this case on November 19, 2014," and has made "various filings … in these proceedings" since. ISTC asserts that its members, quota-holding countries in the Caribbean and elsewhere, have been harmed by the methodology used to calculate Mexico's Export Limit. (SUA disagrees with ISTC's complaint and proposed solution in this regard; however, we cite ISTC's comments to demonstrate that even among sellers of sugar in the U.S. market, ASC's enthusiastic support for the 2017 amendments is not a unanimous view.)

ASC does not seek to explain why it was necessary for the 2017 amendments to increase reference prices for *both* Refined and Other sugar. ASC asserts that among the amendments' "fixes" was to apply "an appropriate polarity definition and price spread between Refined and Other sugar". However, ASC does not address why, if the problem was an inadequate implicit refining margin as embedded in the spread, or relationship between the two reference prices, this problem could not have been resolved by simply raising only one price or decreasing only one price.

For example, under the December 2014 suspension agreements, the reference prices were 26 cents per pound for Refined sugar and 22.25 cents per pound for Other sugar, a price spread of 3.75 cents per pound. The 2017 amendments raised the Refined reference price to 28 cents per pound and the Other reference price to 23 cents, a spread of 5 cents per pound. Given ASC's support of the 2017 amendments, the group must find a 5 cent spread satisfactory. However, the same result could have been obtained by keeping the reference prices consistent with the sugar loan rates established in the farm bill, which provide a refined sugar beet loan rate that is 128.5% of the raw cane loan rate. Current farm bill loan rates are 19.75 cents per pound for raw cane sugar and 25.38 cents per pound for refined beet sugar. With transportation costs of 3-4 cents per pound added for sugar imports from Mexico, the reference price for refined sugar of 26 cents per pound in the December 2014 agreements would ensure imports remain above the farm bill loan rate of 25.38 cents for refined sugar. To obtain a price spread of 5 cents per pound, the new suspension agreements could lower the Other sugar reference price to 21 cents and not undercut the farm bill raw cane loan rate of 19.75 cents.

SUA is also surprised by ASC's demand for "immediate adoption" of the 2017 amendments, since the amendments presumably cannot be adopted "immediately" without violating various requirements in law for appropriate proceedings on the record. Indeed, counsel for CSC Sugar LLC spends considerable time emphasizing the need for a meaningful opportunity for comments by the parties. As an organization which can only comment as a member of the public, SUA strongly supports not only the parties' right to comment, but also that of the broader public.

In that regard, we repeat what we wrote in our November 14 comments: While SUA supports an efficient and speedy process, we do not believe this means that it is impractical to consider changes to the 2017 amendments, including those we have proposed. SUA is happy to respond to any questions Commerce may have about our letter and views.

Sincerely,

Richard E. Pasco
President & General Counsel

PUBLIC CERTIFICATE OF SERVICE

Sugar from Mexico

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I hereby certify that on November 21, 2019, copies of the foregoing public submission were served on the following by first class mail, postage prepaid mail.

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